

MINUTES
REGULAR MEETING OF BOARD OF LAND COMMISSIONERS
December 18, 2006, at 9:00 a.m.
Room 303 State Capitol Building
Helena, Montana

PRESENT: Governor Brian Schweitzer, State Auditor John Morrison, and Secretary of State Brad Johnson, Attorney General Mike McGrath and Superintendent of Public Instruction Linda McCulloch

Mr. Morrison moved for approval of the minutes from the November 20, 2006, meeting of the Board of Land Commissioners. Seconded by Mr. Johnson. Motion carried unanimously.

BUSINESS CONSIDERED:

1206-1 DoC: PROPOSED MALTA DINOSAUR MUSEUM LAND PURCHASE

This is a purchase through the Department of Commerce for the Malta Dinosaur Museum in Phillips County.

Dave Cole, Administrator Community Development Division, Department of Commerce, said the Board was provided with a packet and it included a summary of the key points involved the project. HB 425 that was enacted by the last legislature authorized and appropriated \$500,000 to the Department of Commerce to acquire a site and to develop a museum for dinosaurs in Malta, Montana. We have been working closely with the Judith River Foundation, which was the organization mentioned in the hearings in both Houses, as the intended organization that would operate this facility. There as been an assumption from the beginning that it would be desirable to locate the facility on Highway 2 to accomplish maximum visibility for maximum tourism impact on the Malta community. We looked at two different sites. One was on the east end of Malta, a former implement dealer, and it clearly became apparent the site was too big and would require too much cost to rehabilitate the facility. The other location suggested by the Board of Directors of the Phillips County Historical Society was a site immediately to the west of the Historical Society building, currently the site of Harms Floral shop. It was suggested having the dinosaur museum immediately adjacent to the historical museum would create a synergy between the two, create greater visibility, provide for shared parking and cooperative signage, and advertising for the two museums. The key issue here that immediately became apparent is the issue of the floodplain and proximity to the Milk River. Malta has had a problem with flooding ever since it was platted by the Great Northern Railroad in 1880 or so. The community has responded its situation by constructing a dike around the community in 1952 in anticipation of flooding that year. They did have severe flooding and it was compared to a 100-year flood event. There is a dike immediately next to the river and it was improved again 1978 with additional fill material, again, in anticipation of significant runoff. I would like to point out we discovered in 1986 there was another flood event. Most of the historic flooding for Malta has been spring runoff with significant snow pack often taking place with frozen ground and no place for that moisture to go. The September 25th event was a situation where we had eight inches of rainfall over an 18-hour period, a summer event. That event was a 200-year flood event and I want to point out the property that is proposed for acquisition was protected successfully by the dike that goes around Malta. One other thing I wanted to point out, in the packet there was an article from the *Phillips County News* that talks about Karl and Janice Harms and the fact that they have decided to go ahead with the construction of a floral shop and greenhouse in an alternate location. I wanted to make clear that they are not assuming the approval of the State Board of Land Commissioners for this acquisition, it was simply a

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business decision they had to make to be ready for spring sales. They have started to pour a foundation for a new store at an alternate location closer to downtown Malta.

Larry Putnam, Chair Judith River Foundation and CEO Phillips County Medical Center, said there is a real 15-history of solid support for a facility of this nature in Malta. We have a very active group of board members, a non-profit community board members, that work with Nate Murphy the local paleontologist and it's a dream of our community to have this type of facility in Malta. The Harms are very excited about the prospect of that land being converted to the use, the location and the synergy with the Historical Society which is right next door to the property, and it really does have an impact on the business of dinosaurs. A number of us have focused on the business of dinosaurs to draw tourism to the area. I urge the Board's support for the project and to vote favorably for it.

Anne Boothe, Executive Director, Philco Economic Growth Council serving Malta and Phillips County, said I am also a board member on the Judith River Foundation and have been involved in that process since the beginning. We do call it the business of dinosaurs. It was an effort to enable the dinosaur resources of our community which are renown across the world. We are home to "Leonardo" which is the world's most preserved dinosaur. Leonardo right now is under going some testing and development working with discovery and national media and national research. We actually have some dinosaur models with us that we can pass around. I am here today to speak to some of the questions that have been brought about with this project. As you know, HB 423 was a somewhat controversial bill that was passed in the last legislative session and the ultimate goal of that bill was to create an opportunity for our community to expand on our dinosaur resources. The \$500,000 we had hoped at this time to have additional funds to match with that, what we have instead is we have brought a lot of local in-kind cash to this project. We have been unsuccessful in securing additional grant funding which we had hoped to match the funding with in part because of the wording of the bill, the property being state-owned and having to run through the state budget process has created some hurdles for us. But I am here to proclaim to you we are committed to this project. It is designed in stages. We are committing everything we have to it and pledge our continued effort to make this an even bigger and better facility for our community and the State of Montana. Malta is located in eastern Montana and we participated with the community tourism assessment program a few years ago and realized that along the high line tourists are only spending \$50 per day in contrast to \$100 or more per day they spend in other parts of Montana. Our goal is to fully benefit from all the tourists that come through our region and give them a destination point along the high line. We've created the Montana Dinosaur Trail and we feel we are the premier site of that trail. What you find in Malta is not replications of dinosaurs, you find the real thing. We are very committed to the research and science of that and we appreciate the Board's attention today and the review of our documents and encourage you to support our efforts.

Bruce Davidson, Civic Design in Great Falls, said we have been working with the Judith River Foundation and the City of Malta for quite a while fundraising and finding a site for the project. We did the initial PAR with the Department of Commerce looking at different sites and identifying them. I want to address two points. One, we've done some research with Commerce on the floodplain and we've got a strategy for meeting the state requirements by building the museum two feet above the floodplain in order to meet the requirements and preserve all the specimens. Two, I think that we haven't really begun the design of the facility yet, we are in the process of determining how that facility will be constructed in order to maximize the amount of space we have for the museum. For the most part, the museum is going to be a multi-purpose exhibition hall and its going to be the first step of this multi-phased development they have planned for the long term.

Governor Schweitzer said Mary, I'll turn this over to you. Would you once again state what the action is that is being requested of the Board?

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Ms. Sexton said this is a proposal for the purchase of the site, \$92,000 from the Department of Commerce, the appropriation was for \$500,000. This was appraised by Richard Cassutt of Fort Benton. The state used a portion of the appropriated funds to pay for this appraisal. The architect believes the building of 4,000 square feet can be built within the existing appropriation, including the cost of land purchase. This is for the \$92,000.

Ms. McCulloch said I am excited to vote for this. We have a wonderful dinosaur museum in Bozeman, but being the school superintendent, not every kid can get to Bozeman. So I had the pleasure when I was in the legislature to vote for the dinosaur museum next to the Fort Peck Dam. A couple of years on one of our yellow school bus tours visited the school up there and we usually try to visit some things in the community afterward. We visited the dam and then went over to the dinosaur museum which was not yet open, it was still under construction. But there is nothing more exciting. I watch kids look at dinosaur things all the time, but I had the opportunity to watch my staff, adults, go in and get to very carefully touch the actual bones of dinosaurs. And the thrill of a lifetime was we got to go into the vault and actually touch the serrated teeth of the dinosaur. It was very very exciting. Any time we can preserve the things in Montana that we don't find in any other state it is very exciting we get to do this and its very exciting the kids get to benefit from this. Thank you to everyone who worked so hard on this especially Sam Kitzenberg and Wayne Stahl.

Mr. McGrath said are we comfortable the floodplain regulations have been satisfied in terms of this site?

Ms. Sexton said that's my understanding, yes.

Governor Schweitzer said those in natural resource management will appreciate the comments I'm about to make. One hundred year floodplains, we describe these 100-year floodplains as being an event that occurs only once every one hundred years, when you breach the 200-year floodplain, we are saying this is the only time from the time that Lewis and Clark marched their way up the Missouri River, and the only time it will happen again since it has already occurred is going to be on average another 200 years. Bottom line is for land use planners when you get to the 200-year floodplain, its pretty safe. I would like to say this came about because of the vision of Wayne Stahl and Sam Kitzenberg. Yes, there were those that were detractors, even in northeast Montana, but if we're going to build a strong economic base across this state, we are going to look for opportunities in northeastern and eastern Montana. Whether those be opportunities that deal with tourism or as we, as the Board, will demonstrate later today, issues that deal with energy. We are going to look for opportunities of developing the resources of eastern Montana, in particular, northeastern Montana. I'm particularly gratified, both the First Lady and myself are actively pursuing students, teachers, across Montana to attract more young people to study science and math. In particular with the intent of having more study in the natural sciences, geology. We have abundant hydro carbons in Montana, we have abundant geologic formations for sequestering carbon dioxide. We have some great opportunities but we are on the cutting edge of these ideas and we need young people to study science and math. I have found, personally, the greatest attractant to studying geology for young people is dinosaurs. They love them. It's the way to get them in the door. I don't care how we get them in the door but once we get them attracted to studying geology, once they start understanding terms like "Jurassic" which tells them how many million years these dinosaurs traveled across the landscape, and how they ended up in the Hell Creek Formation, we want to use this to get them in the door. I am a big supporter of this. Thank you for traveling down from Malta.

Motion was made by Ms. McCulloch to approve the acquisition. Seconded by Mr. Morrison. Motion carried unanimously.

1206-2 FWP: LYMAN CREEK FEE ACQUISITION

Ms. Sexton said this is the acquisition of 368 acres in Ravalli County from the Wetzsteon family through the Rocky Mountain Elk Foundation. This is going to be a joint venture with Fish, Wildlife, and Parks. They are initially purchasing the property and then proposing an exchange with some DNRC property. This is within the Sula State Forest and this will block up land for the Sula State Forest and we will then exchange in-holdings of DNRC lands within FWP Wildlife Management Areas. This will be presented by Glen Erickson who is celebrating 34 years with FWP and is going to be retiring at the end of the year.

Glen Erickson, Administrator Field Services Division, said it is a pleasure to be here my last time, but hopefully these five projects I'll go through here today will be a culmination with a fun time with FWP. Hopefully I can get out there and enjoy them in the future. The first is the Lyman Creek acquisition. It is an acquisition near the Sula State Forest in the Sula Basin. If you remember the Miller exchange and the items that occurred around this, it is in that area and the property provides some of the access and wildlife habitat. We are intending to purchase this property for \$625,500 which is the appraised value. The Rocky Mountain Elk Foundation has basically agreed to try to raise the additional money of \$62,500 which is what the landowners are willing to sell the property for. They actually received an offer higher than that and are willing to go down to this level in order to get it into the state's hands. After the property is purchased we intend to go through an exchange process with DNRC to try to obtain properties within and adjacent to our Wildlife Management Areas in the Bitterroot, Calf Creek, and Three Mile WMA. The property has big game winter range, there is about 1,000 elk in the area, also some mule deer and a lot of recreational use. It provides a main access point into the forest and is used by quite a few hunters. It has been supported very vehemently by the sportsmen's groups in the area and a lot of the other people. We released a draft EA in October and had a Decision Notice reached on November 21st to purchase the property and go for the exchange. The FWP Commission approved the purchase of the property on December 14th. With that, I would ask for approval.

Motion was made by Mr. McGrath to approve the acquisition. Seconded by Mr. Johnson.

Mr. McGrath said obviously this is a project several of us have been working on for a long time, it was part of the Miller exchange. It came to light that this property does two things in addition to the access that was talked about earlier. One, it allows us to block up a lot of our DNRC holdings in that area. And it puts this parcel into the public domain in terms of access. I want to publicly go on record and thank the staff for working on this to put this together. I also want to thank the Elk Foundation. They made an amazing effort to make this happen, they went out and got the options, they hung with us despite considerable criticism from certain folks and it really has worked out well. This is an excellent acquisition. I think everybody who watched this issue is very proud we are able to acquire this. I appreciate the efforts of the departments, both FWP and DNRC, and particularly the Rocky Mountain Elk Foundation.

A vote was taken on the motion, it carried unanimously.

1206-3 FWP: OVANDO MOUNTAIN FEE ACQUISITION

Mr. Erickson said the Ovando Mountain Wildlife Management Area is about 4,000 acres, this property within the WMA. It is property that holds some key value to us for the WMA, and it will cost us about \$270,000 using funds from the Habitat Montana Program. It is 180 acres of land within Powell County. It has deer and winter elk range, grizzly bear habitat and it is important related to access to the area. An EA was released on October 20th, a public hearing was held in Ovando on November 8th, and a Decision

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Notice was issued on November 24th. The FWP Commission approved this unanimously on December 14th. I would ask for approval.

Motion was made by Mr. Johnson to approve the acquisition. Seconded by Mr. McGrath. Motion carried unanimously.

1206-4 FWP: STRANAHAN FEE ACQUISITION

Mr. Erickson said this is the acquisition of the Stranahan property in the Alberton Gorge. It is a 20-acre parcel located in the recreational corridor. If you remember we came to you in the past with a four-way exchange that purchased about 306 acres in the same area. It is now basically forming what we would call a linear state park. It looks like a very neat place with a lot of fishing access, parking, camping and floating in the area. It is a highly sought-after place to go. Ms. Stranahan has indicated the dollars she received from the department would be earmarked for future acquisitions along the Clark Fork or Blackfoot Rivers should the department decide it needs assistance again in obtaining important recreational property. The actual value to the department is \$220,000, which is what was paid for the property when Mary Stranahan purchased it earlier. Now with the increase of about 10% per year in values, it is estimated that property is actually worth \$500,000. She is willing to sell it to us for \$220,000 which was her purchase price. We released draft EA, held a 30-day comment period, the Decision Notice was issued on November 30th, and the FWP Commission approved this unanimously at their December 14th meeting. Because of the importance of this property we also received notice from the First American Title that they are willing to waive the title insurance fee for this property in order to make this occur. Which is an unusual thing to happen. I hope the Board would approve this.

Ms. McCulloch moved for approval of the acquisition of the Stranahan property. Seconded by Mr. McGrath. Motion carried unanimously.

Mr. McGrath said I think this is part of an extraordinary development, it is part of the entire Alberton Gorge development we've looked at over a period of the last few years. It is extraordinary what has been accomplished here through the Gorge. I Want to thank again, the FWP and particularly Mary Stranahan for acquiring this property and allowing the department ultimately to get it. It will provide a tremendous access point to the Alberton Gorge. Those of you that have been over there, it is a beautiful spot and this is a very nice piece of business.

1206-5 FWP: MACHLER CONSERVATION EASEMENT

Mr. Erickson said Mark Machler approached the NRCS and FWP several years ago to discuss the possibility of providing recreational access protecting his land from subdivision and to "re-meander" Big Spring Creek. This property lies between the Lazy KB fishing access site and the Carroll Trail fishing access site. We have been working in a partnership with Fergus County Conservation District, NRCS, and the FWP and watershed partnership of Big Spring Creek to begin a project to re-meander the creek in this reach similar to what we did in the Brewery Flats area earlier. A feasibility study as been completed to re-meander this stream which has some historic significance. This particular stream was straightened in the past and it resulted in the passage of the Montana Natural Streambed and Land Preservation Act, which requires a 310 permit process. We feel Mr. Machler should be commended because he is coming forward to try to restore the stream back to the way it was, and it is all because of his initiative that this is occurring. Acquiring this Conservation and Recreational Access Easement would protect the land from subdivision, the landowner's main objective, it would also provide a recreational trail for the public,

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stream access for anglers, and provide for future re-meandering of Big Spring Creek. It will cost FWP \$225,000 which is a bargain sale based upon the appraised land values in the area. We had a Draft EA, a comment period, and the FWP Commission gave unanimous final approval on December 14th. I ask for the Board's approval.

Motion was made by Mr. Johnson to approve the acquisition. Seconded by Ms. McCulloch. Motion carried unanimously.

1206-6 FWP: HART CONSERVATION EASEMENT

Mr. Erickson said this is an acquisition in the Hinsdale area, adjacent to our Hinsdale Wildlife Management Area, and is approximately 402 acres in Valley County. This is for a Conservation Easement, our cost is \$180,000 using funds from Habitat Montana, which is hunting license fees. Plus the Wild Turkey Federation has agreed to come up with \$20,000 for the total purchase price of \$200,000. So the property is actually costing us \$200,000, the appraised value. It is wetland riparian wildlife habitat along the Milk River and Beaver Creek confluence, close to the Capdeville property you will be hearing about later in the meeting. We released a draft EA, a Decision Notice was issued, and the FWP Commission approved this unanimously on December 14th. I want to mention that the Commission said it will fit in well with the Hinsdale Wildlife Management Area and that was one of the main reasons they felt this was a good purchase, in addition to the wildlife habitat. There won't be many changes as far as the operation of the property. It is being well operated by the landowners who have been there a long time and have provided public access. I would ask for approval.

Motion was made by Ms. McCulloch to approve the Conservation Easement. Seconded by Mr. McGrath and Mr. Johnson simultaneously. Motion carried unanimously.

Mr. Erickson said I wanted to announce that Deb Dils, one of the members of my staff, is also retiring after a long time with FWP. She will be leaving at the end of the year. She has been the one main sparkplug in the land section, she has gotten a lot of these properties done since her tenure, there has been over 300,000 acres put into easement in Montana mainly as a result of her efforts.

Governor Schweitzer said Glen I want to thank you for your service and as a comment I see that this is effective the end of the year, and I know the legislature starts at the beginning of the year. I have no idea whether the decision to be a few months earlier or later has anything to do with the legislature's infrequent visits to the Capitol but thank you for your service and we will miss you during the session.

Mr. Morrison said congratulations to both of you and thank you for your service.

1206-7 APPROVAL OF OIL AND GAS LEASE SALE (Held December 6, 2006)

Ms. Sexton said the department held an oil and gas lease sale on December 6, 2006, and offered 81 tracts for lease. They were leased for a total of \$273,624, covering about 32,000 acres. The average bid was \$8.52 per acre, and the high bid was in Roosevelt County for \$66.00 per acre. Ms. Sexton recommended approval to issue the leases from the sale.

Motion was made by Mr. McGrath to approve the leases. Seconded by Mr. Johnson.

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Mr. Johnson said the gross revenues from this sale are down dramatically from previous sales. Give us an analysis, is it strictly due to softening in the market or are we dealing with significantly fewer tracts in this sale? Or both? What are we looking at?

Ms. Sexton said it was primarily the number of tracts, there were only 81 tracts.

Monte Mason, Chief DNRC Minerals Management Bureau, said yes, this was quite a bit smaller than some that we've recently had and I sincerely apologize for that. As Director Sexton said, the number of tracts was smaller, the tracts that were nominated are in more speculative areas that don't generate the same level of competitive bids that we've seen on some recent previous sales. Actually, a few years ago I would have been very happy to bring this to you because it would have been a pretty good sale. As far as softening of activity, I don't think this indicates that. We already have over 150 tracts nominated for the March sale. It was a small sale, the do fluctuate depending upon what area they are in, they vary quite a bit. We hope to do better next time.

Governor Schweitzer said we've had a conversation in the last few months about how active we are when we do have leases that come up in contacting landowners in the area, surface landowners. In particular those landowners that own the surface land above where those minerals are. I've had landowners contact me and say if I'd have known my minerals were coming up for lease I'd have been a bidder. Can you describe for me what we have done or what we may do?

Ms. Sexton said yes, we have offered to the public through news releases and press releases when lease sales are going to occur. I have visited with Monte about that. We do extensive contact, although to contact every landowner around each sale would be a monumental effort since there are a lot of leases that come up each year.

Mr. Mason said we've done some research to review how many notices that would amount to on average by looking at cadastral survey data on surface owners around a nominated parcel. I used the past year's sales to analyze that and I believe it came out to an average of 13 or more notices would have to be sent for each parcel. Of course, we've been averaging 150 - 200 for the last couple of years. I am still putting together a cost estimate for Director Sexton. One comment I would make is in my experience with the lease sales we've had the interested parties are almost universally people involved in the oil and gas business, either companies or individual land men. The number of surface owners who have been interested enough to bid I can probably count on one hand. So I am still putting together a memorandum for Director Sexton, I believe part of that memo will be some recommendation as to how much bang we would get for our buck in taking an individual notice to surface owners around the parcel.

Governor Schweitzer said I brought it up because I believe one of the bids in this particular parcel from Teton County was a person who is a surface landowner in the area, a non-traditional landowner in the area, and he had let the previous lease expire and the new ranch manager let that expire. I actually have a fair number of people, it would be more than a handful of individuals, there is a fair interest among landowners that maybe didn't occur 5 - 10 years ago in having some kind of role in development of those resources. Thank you for continuing to look into this and honestly if we contact fifteen potential bidders on a particular sale and it costs \$1 each and every 50th one it increases the lease by a little bit, it may pay for it. Continue looking into this and see if we can't build a protocol.

Mr. Mason said I could add that yes, the Teton County bidder is a very unusual situation. But there are large landowners, say in the southeastern part of the state, who hold enough land that they do want to get active in managing both their mineral estate and having a hand in state leasing within their ranch. That's fairly unusual.

A vote was taken on the motion. It carried unanimously.

1206-8 FINAL APPROVAL FOR LINCOLN AND OVANDO PROPERTIES

Ms. Sexton said this is for final approval of a land banking acquisition and I am very glad to bring to you the West Ovando/North Lincoln tracts. The North Lincoln tracts were involved in the former Miller Land Exchange as well as the Wetzsteon property you heard about earlier. In the North Lincoln we will be acquiring a little over 1,000 acres, in the Ovando area we will be acquiring 1,438 acres. Tony Liane from our SW Land Office is here and he can show you those tracts. They will block up state land. These were Plum Creek tracts that were purchased by the Nature Conservancy and we are purchasing them from the Nature Conservancy at a considerable savings. We are purchasing them for the original cost and substantially less than the appraised value, the cost to the state is \$1.6 million and the appraised value was almost \$2.5 million. The Ovando Mountain tracts do already have conservation easements on them which lowered the value. The Ovando Mountain tracts are very close to the tract purchased by FWP as an addition to their Wildlife Management Area. These have been fully analyzed through the land banking process. I would recommend approval of the West Ovando/North Lincoln tracts for acquisition, these are an excellent addition to our portfolio of state lands not only for their timber productivity but for their community and other recreational amenities.

Motion was made by Mr. McGrath to approve the acquisition of the two properties. Seconded by Ms. McCulloch.

Mr. McGrath said as Director Sexton said this is a continuation of efforts we made on the Miller Exchange earlier. I personally want to thank Mary and her staff and Tony for persisting on this acquisition. The entire issue has come out very well for the people of the State of Montana. I also want to thank the Nature Conservancy. This, for a time, was a difficult issue for them as well. We very much appreciate their efforts and willingness to hang in there with us and giving us the price that we are getting on this.

Mr. Morrison said I had an opportunity to tour this property with DNRC and I want to add my thanks to them for giving us a great tour. It is a spectacular parcel in a spectacular part of our state, it adds to that corridor that goes up through the Scapegoat, the Bob and up into Glacier and Waterton. It is just a wonderful acquisition from a recreational and conservation standpoint as well as the value it brings to the trust.

A vote was taken on the motion. Motion carried unanimously.

Governor Schweitzer said I see we have a number of students that have entered the chambers and they obviously have an active interest in the doings here because as you've seen today we lease minerals, sometimes we sell timber and all of that money goes to education. So if I may, I would like to ask one of the students, a representative of the students, to please stand and tell us your name and the name of your class and where you are from.

I'm Henry. I am from Virginia.

Governor Schweitzer said welcome to Montana.

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Teacher: The students came from Hawthorne School to look at the Christmas trees. Now we are taking a tour of the whole Capitol. It is great for them to see the Land Board as well, and they are very impressed. Henry moved here from recently from Virginia and joined Hawthorne School.

Governor Schweitzer said as Linda McCulloch might remind me, whenever you have young students and you ask a question, anything can happen.

1206-9 FINAL APPROVAL OF CAPDEVILLE PROPERTY

Ms. Sexton said this is requesting final approval for a land banking acquisition of the Capdeville Ranch. Ironically, this is another purchase that is in the vicinity of the FWP item that was heard earlier today. This is near Hinsdale on Beaver Creek very close to the Milk River. The total acreage is 534 acres. There are 245 acres of dryland, 125 acres of hay ground, and 41 acres of CRP. This is an excellent property and fits well in our efforts through land banking for higher value properties. The return of investments over 20 years will be over 2% and most of the lands that we are selling were less than 1% so we are more than doubling our income to the trust. This property is in excellent condition and offers a variety of recreational opportunities. As noted before, there is a Wildlife Management Area nearby and the easement that was discussed earlier. The purchase price is \$618,000, the appraised value is \$619,000, so this is coming in less than the appraised value. It is my strong recommendation the Board approve the purchase of this property through the land banking effort.

Motion was made by Mr. Morrison to approve the purchase of the Capdeville property. Seconded by Mr. McGrath. Motion carried unanimously.

1206-10 TONGUE RIVER RANCH

Ms. Sexton said this is the Tongue River Ranch of which you all are familiar. We are making progress but we are not quite there yet. I am asking for an extension from December 18, 2006, to January 20, 2007. To give you some status, we have the appraised price at \$4.8 million, \$200,000 less than the purchase price we agreed on. I have been working actively with Pheasants Forever and they are very interested in partnering with us and they will supply the remaining part. Much like some of the projects you heard from FWP we are entertaining partners in our efforts. This is excellent pheasant habitat and they are very excited about the large acreage and the location of this property so they will partner with us. The environmental remediation which was certainly discussed last month will begin tomorrow. We have put this off because we are still working on the access issue. The commissioners are again considering the access on this property, in fact it is on their meeting agenda today and we are hoping within the next month that that will be resolved and move into a positive direction. We do have a signed agreement to extend this for a month with the four contingencies the Board stipulated last month. Mr. Landers has already signed that and I am asking approval to extend for one more month the agreement to purchase with the contingencies the Board noted last month. I think we are making progress and I think if we are able to be successful in this it will be an excellent addition to DNRC properties and also properties for the State of Montana. Its my recommendation the Board approve the timeframe from December 18th to January 20th to resolve the above contingencies and sign the agreement.

Motion was made by Mr. Morrison to approve the extension. Seconded by Ms. McCulloch.

Mr. Morrison said does the January 20th date encompass the first meeting of the new commission after the new year? After Gary Matthews is sworn in?

Ms. Sexton said yes it does.

Governor Schweitzer said in the interest of disclosure, at the end of the last meeting, the representative of the landowner, the realtor, suggested I speak to the owner of the land. An hour or so later I had a long conversation with him and we tried to iron out some of the frustrations he had in trying to sell property to the state. It takes a little more time, a little more effort. After sharing a large number of frustrations with me, he more or less agreed we'd keep the line of communication open and its led to where we are now. Hopefully we can put this together and put it to bed in the next month. Land deals, as I'll remind the Board, start with many "nos" before you get to a "yes" and we're on this process. I am satisfied this Board has been doing their due diligence, I'm satisfied DNRC has been doing their due diligence. If it ultimately leads to us turning away land deals because we have asked the Nth degree of questions, I am satisfied that we've done that. Thank you very much.

A vote was taken on the motion. Motion carried unanimously.

1206-11 CONFUSION SALVAGE TIMBER SALE

Ms. Sexton said I would like to take the two timber sales together. The first is the Confusion Salvage Timber Sale is out of our Clearwater Unit and is a small sale of about 588 MBF. This is primarily beetle kill timber in lodgepole pine. There are 36 acres of old growth but harvest in these two units would be restricted to lodgepole pine while Douglas-fir and larch that constitute the old growth component will remain standing. The stand will meet the *Green et al* definition after the harvest. This is for fuels reduction and timber salvage project around numerous cabin sites along the shores of Placid Lake. Dead and dying trees would be removed to reduce fire danger and salvage the wood while still commercially viable. Approximately 1.35 miles of existing road would be improved and reconstructed to meet current BMPs.

1206-12 PACKER GULCH FIRE SALVAGE TIMBER SALE

Ms. Sexton said this is from our Missoula Unit located in Granite County. The estimated volume is 2,136 MBF with an estimated value of \$226,902.00. Eighty-seven percent is fire salvage resulting from the Packer Gulch Fire. There will be two harvest units on 295 acres, 231 is fire salvage. There is no old growth. Every effort will be made to keep the green trees with large diameter Ponderosa pine favored for retention throughout the sale area. There will be about 3.1 miles of new road constructed and approximately 2.6 miles of existing private road would be reconstructed. An additional 14 miles of road would be maintained or reconditioned to meet current BMPs. All new roads will be gated or physically blocked to prevent motorized use once the sale is completed.

Ms. Sexton requested approval of the two salvage timber sales.

Motion was made by Ms. McCulloch to approve the Confusion Salvage Timber Sale and the Packer Gulch Salvage Timber Sale. Seconded by Mr. McGrath.

Mr. McGrath said we need a better name for the Confusion Sale, it might be off-message.

Governor Schweitzer said ten days ago I met with Secretary of Agriculture and I described for him how the Land Board had worked on these salvage sales in such a rapid form that even in some cases we were cruising the timber while there was still some smoke and that we were racking logs literally within 45 days of the event. Merchantable timber was being sold and we were in salvage efforts already putting

native seeds back down. I suggested that perhaps some members of the USFS might want to attend some of our meetings and carry on active discussions with the DNRC because we are partners and neighbors in so many places. I think the suggestion was well received.

A vote was taken on the motion to approve the two salvage timber sales. The motion carried unanimously.

1206-13 RIGHTS-OF-WAY APPLICATIONS

Ms. Sexton said we have some routine historic electric utility requests, historic telephone utility, new electric utility, and historic easements. There is one I would like to bring your attention to, it is on page 48, from the Wilderness Sportsmen Club in Seeley Lake. As you remember, about a year ago there was a group that came in regarding the lease rates and the increase of the lease rates due to the increased land values in the Seeley Lake area. A number of those gentlemen are here today. Through the efforts in working with our staff we have reached an easement agreement. This is for five acres with the cost of the easement at \$50,000. They would like to as funds become available, increase the size of the easement but this does cover at this time the needs of the shooting range in Seeley Lake. This has been a positive conclusion and I want to thank them. There are also two amended easements on pages 49 and 50, these are for Bed and Breakfasts. Because they are small commercial operations, we are amending these historic easements to include their Bed and Breakfasts. This month the applications are: #13440 through 13446, and 13972 from McCone Electric Cooperative, Inc. for overhead electric distribution lines; #12242 from Edwin and Linda Hyem for a private access road for conducting normal farming and ranching; #13950 through 13959 from Lower Yellowstone Rural Electric Assoc. for overhead electric distribution lines; #13959 through 13961 and #13964 from Qwest Communications for buried telephone distribution lines; #13962 from William and Deborah Smart for a private access road; #13963, 13965, 13980 through 13995 from 3 Rivers Communications for buried telephone distribution lines; #13966 and 13967 from Sheridan Electric Cooperative for buried electric distribution lines; #13968 from Andrew and Janelle Bergum for a private access road; #13969 from Walter and Helena Norris for a private access road; #13970 from Clark Canyon Ranch for a private access road; #13971 from Turner Enterprises for a private access road; #13996 from the Wilderness Sportsmen's Club for a community gun club and shooting range; #11307 from Robert and Ann Evans for a private access road to their Bed and Breakfast; and #13759 from Frank and Patricia Shelton for a private access road to their Bed and Breakfast. Ms. Sexton requested approval.

Trent Toms, President Wilderness Sportsmen's Club, said we would like to thank the Board for considering this and thank the DNRC people for helping us get to this point, its been kind of a struggle for us.

Motion was made by Mr. McGrath to approve the rights-of-way application package. Seconded by Mr. Johnson.

Mr. McGrath said I would like to commend the department on the Wilderness Sportsmen's Club application. This is a unique approach and I appreciate the flexibility. I think everybody who worked on this did a great job and it has worked out well.

Ms. Sexton said Mike Sullivan of our staff worked with the Wilderness Sportsmen's Club on this and we certainly appreciate his efforts.

Motion carried unanimously.

INFORMATIONAL ITEMS

1206-14 PRESENTATION – FY 2006 HIGHLIGHTS BY TOM SCHULZ

Ms. Sexton said this morning we have the highlights of the Trust Land Management Division presented by Tom Schultz, Administrator. Certainly as we are going through this if you have questions or want further detail, please interrupt and we'll be glad to answer.

Tom Schultz, Administrator DNRC Trust Land Management Division, said as part of this presentation I am going to provide you with a variety of statistics concerning land management and revenue pertaining to Montana state trust lands. However, sometimes numbers can be cold and impersonal. The accomplishments of DNRC employees are anything but impersonal. Today instead of just focusing on facts and figures, I am going to tell you the story over the last year and how things evolved. We have about 125 folks on staff. The way we are organized in Montana is a little unique compared to other states. In Idaho, for instance, the department actually works directly for the five members of the Land Board. In Washington, the director is actually an elected official. In other states you have elected officials. In Montana we have an appointed director. Whereas we do work directly for the director, we also work for the Land Board. I know there is a piece of legislation in this session that looks at having the Land Board have additional staff. I think Director Sexton has done a good job with making sure not only do we represent the interest of the executive but we also are very open with working with the Land Board members and trying to understand their thoughts and concerns. The 125 staff people work in excess of 260,000 hours during the year to accomplish a rigorous set of objectives. We have one of the most highly skilled and dedicated staff in the country. The readiness level of your land stewards is high. We have land use specialists, foresters, biologists, hydrologists, land use planners, legal counsel, economists, and administrative staff that is unparalleled in other states or within the federal agencies we manage alongside. These employees take their jobs seriously and are deeply committed to upholding their trust and stewardship responsibilities. Our employees are well respected and represent the state and the department well within Montana communities in which we live and at the national level. Within the division we manage the state lands with an eye to being good neighbors toward other landowners across the state.

First, I'd like to thank Connie Daruk who is our fiscal officer. She's done a great job not only in putting the presentation together, but she is the one who keeps us on the straight and narrow with funding proposals during the year and keeping accounting of our costs.

In trust lands you have primarily three different things we work on: Leadership – manage the state trust lands; Fiduciary – produce revenues for the beneficiaries; Stewardship – considering environmental factors and protecting future income-generating capacity of the land.

In FY-2006 the trust land activities generated 10.8% or \$65,274,557 of the state's share of public school funding. The Technology Acquisition Fund generated an additional contribution of \$4,641,388 for the Common Schools from timber volumes in excess of 18 mmbf. Montana is part of the 23-member states whose trust lands generate revenue. New Mexico funds about 15% of the state's share, but Montana is number two with 11%. Common Schools receive 65% of the revenue generated in Montana.

The Trust Land Management Division is made up of four primary bureaus:

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- The Agricultural and Grazing Bureau. Agricultural revenues were \$9.8 million, with \$3.3 million from the Farm Program Payments. Grazing revenues generated \$6.9 million. There are 1 million AUMs in Montana and the 2006 AUM rate is \$6.99/AUM minimum for leases issued after 6/30/2001. Minimum grazing rates are calculated annually using Montana beef cattle prices. Other than revenue generation, this bureau inspected approximately 913 leases containing 1,332 tracts; conducted 19 cultural/paleontological inventories on a total of 5,800 acres; conducted willow collections for the Big Hole Grayling Restoration Project and Red Rock Grayling Stream Enhancement Project; submitted 56 county weed management biennial performance reports; and collected and redistributed weed biocontrol agents statewide.

Mr. Morrison asked do you do any work with water resource agencies or with watershed agencies?

Mr. Schultz said we do informally. There are other departments of DNRC, the Water Resources Division that is more actively working with watershed agencies.

- Forest Management Bureau. FY-2006 revenue was \$15,875,615 primarily from the 24 timber sales approved by the Land Board and 55 sale permits issued. The volume harvested was 56.5 million board feet. The Forest Management Bureau also completed development of Conservation Strategies for the Habitat Conservation Plan and started analysis and development of a draft HCP EIS. It was awarded \$574,000 grant to complete the HCP. The bureau also participates in restoration activities. It has performed headgate installations on Beaver Creek and irrigation ditch stabilization associated with Phoenix Timber Sale Project; coordinated efforts between DNRC and FWP; and restored stream flows in Beaver Creek and reduced sediment in Bear Creek to improve native fisheries and water quality. We have replaced or removed 19 stream crossings to address fish passage and sediment issues; planted 232,000 trees in the Sula State Forest on 850 acres; and completed prescribed burn at Elk Creek with the BLM Project reducing logging slash and understory fuels. There is log salvage on the Blackfoot River of logs exposed after removal of the Old Bonner Dam near Stimson's mill. It is a coordinated effort between DNRC, DEQ, and EPA, with funding provided by the EPA. There is also a reciprocal access management program to provide public access to state land. The total trust land acres accessed is 4,719 acres, with new public access to state trust land on 1,990 acres. The revised reciprocal access policy has been approved by the Land Board.

Mr. Schultz said we manage 3.5% – 4% of the state's forests, yet we produce between 7% - 8% of the volume harvested off all the forests in Montana. Whereas some folks say we are an important component in the marketplace, overall in Montana most of the forests that are being managed are private forests, and most of the timber being harvested comes from private timberland. The USFS used to produce 40%-50% of the volume, that number has significantly gone down in the last ten years. Actually the private forest harvest has ramped up. In terms of our strategy, I would talk dollar /cost strategy. The long term forecast over the next 50 years looks fairly stable. However, even though prices have naturally gone down for a variety of reasons, on state trust lands we haven't seen a drop in prices for timber. There is very much a need for supply and we're staying on average pricing. The size of the sale and the timing may affect the price we receive. Before we sell a sale, we have a meeting with potential purchasers on site and explain to them what we're looking to do. Other factors are environmental constraints. If we have a salvage sale in many cases those sales are conducted in the winter when soil compaction doesn't occur and there is less affect on the ground.

- Minerals Management Bureau. FY-2006 revenue was \$42,716,187 primarily from oil and gas leasing. The price of oil drove a lot of this and the price of gas has gone up as well as production. Coalbed natural gas spiked about a year ago because of market price and production. The

production rates are affected by the individual POD development. We haven't had some for several months but there are some on the table. A lot of that is due to a recent decline in gas prices. The new wells produce quite a bit in the first six months to a year, so you tend to see a blip when they put in a new POD. The Otter Creek Coal tracts report is available, it has a lot of data. We've had some interest expressed to the Land Board members about the potential lease. We don't have a proposal on the table currently, other than some speculative interest. The report was done in conjunction with Great Northern who is co-mingled in ownership, and incorporates old, new and previously unavailable technical information. It provides geologic modeling and coal resource analysis, structure maps and cross-sections; isopach maps by coal seam; iso-contour maps and vertical variability tables for key coal parameters: moisture content, ash content, sulfur sodium, btu content, etc.; in-place resources by section and resource classification; mine evaluation, including LUMs and mine cost models; and market/transportation review. Everyone on our mailing list received an updated data disc including the study and other information. (Also available on department's website.)

- Real Estate Management Bureau. The REMB produced \$4,210,017 revenue to the trust in FY-2006. The revenue came equally from easements/rights-of-ways, recreational use fees, residential leases/licenses and other licenses and leases. On-going activities for the Spring Prairie Center in Kalispell is the Lowes will open this year, the high school is under construction and will open in 2007, the Kalispell fire station and a Wells Fargo Bank have been completed. A Starbucks is currently under construction and there is discussion of additional tenants in front of anchor stores. Construction of a Forest Service headquarters building will begin this fall. There are three wind energy projects. The Judith Gap project consists of 90 towers with 13 towers on state land, \$19,000 was contributed to the school trust for a one-time installation fee and future revenues of approximately \$52,000 annually will occur depending upon power production. The Springdale project has six or seven wind turbines located on state land. The EA is in the initial stages. The Valley County project will have 43 wind turbines located on state land. Future revenues will be approximately \$175,000 annually after final build-out. The first phase of construction is anticipated to begin in 2008. Land banking is progressing. Total acres sold is 19,189 for the sale price of \$10,660,498. There are properties we are looking at, the Wolf Creek Ranch will come before the Board next month, we've talked about the Tongue River Ranch acquisition. If we are able to successfully acquire all these properties, we are looking at purchasing 24,315 acres for \$9 million. The appraised value is \$10 million. Key factors are access. The land we sold, 95% of the acres did not have any access. All of these 24,000 acres we would purchase would have public access. We feel the department has followed the intent of the statute to diversify the trust holdings, increase revenue, and increase public access. We've done that in an open forum, we've been very transparent with our partners. There is restoration activity to clean up a tire pile in Columbus. We have been struggling for ten years to get this cleaned up and with assistance from DEQ, the cleanup is completed. Three thousand tons of shredded tires and 5,200 tons of burned soil, tires, and debris were removed from the site.

Mr. Schultz took the opportunity to thank and congratulate the DNRC folks who worked on various projects and received awards.

Ms. Sexton said a lot of long hours and extra work because of the increased activity and certainly the increased revenue is apparent. I want to thank them a whole lot for their super efforts.

Those employees are the Minerals Management team, Marc Aberg, Hoyt Richards, Randy Dirkson, Dan Dobler, Erik Eneboe, Steve Dobson, Monte Mason, Julie David, Wanda Walks, and Bobbi Jo Coughlin – Director's Award; Bob Storer, SW Land Office – Forester of the Year; Jeff Bollman,

Southern Land Office – Specialist of the Year; Jon Hayes, SW Land Office – Division Administrator's Award; Wanemah Hullett, NW Land Office - Staff Support Award.

PRESENTATION OF 2006 REVENUE CHECKS TO SUPERINTENDENT OF PUBLIC INSTRUCTION.

A class from Central School came into the chambers.

Ms. Sexton said we are very proud today to have the class participate in the presentation of the check, Auditor Morrison can introduce the class.

Mr. Morrison said I can do that I know each and every one of them. This is the fourth and fifth grade Monissori Class from Central School, Ms. Kay is the wonderful instructor that my kids had for four years now. Thank you for bringing all these wonderful kids. I'd be remiss if I missed the opportunity to introduce my daughter, Amanda.

Ms. Sexton said Superintendent McCulloch if you'd like to come down. We are very proud this year to have the check in the amount that it is. We have a chart up here that shows the increase and the last two years particularly have shown substantial increase because of increased oil and gas activity, timber sales, and commercial activity. We are greatly benefiting the schools of Montana. If everyone can get lined up here, and have the kids come up as a class we can get a picture.

Governor Schweitzer said I see there are 24 kids in the class, I know one teacher cannot shepard those kids around, and I see a few mom's here as well.

Mr. Morrison said the First Lady Auditor is here, and Charlotte Kay does the teaching of all these kids on her own. She has a number of parents pitching in on a volunteer basis to help.

Ms. Sexton said thank you all very much for coming.

Mr. Schultz showed a chart depicting the last 10 years of distributable revenues to schools. If you go back to 1997, you can see that number was roughly \$37 million. This year with the \$65 million plus the additional \$4.6 million you can see we are above \$70 million this year in total distributable revenues to schools. We have almost doubled the money coming in to schools from state trust lands in the last ten years. That is due to a variety of things, but again, the hard work and the folks that work with the department in conjunction with the Land Board. This doesn't happen without clear direction from the Board in terms of what it wants to see on the ground.

Governor Schweitzer said does this mean that there are more dollars going to education on the basis of us collecting more? In other words, we now have \$70 million instead of what was \$38 million or \$40 million. Does that mean there is an additional \$30 million pumped into K-12 education by virtue of us selling more?

Mr. Schultz said as we deal with this issue with the Superintendent each year, what this means is that there is more money available for funding schools from us. That either allows the legislature to put additional general fund monies if they are short into education or that more money from the general fund could go into other programs the state does. If we had a shortage in CHIP in any given year, we were going to put more money from the general fund into CHIP, if we had more money coming from trust lands that would allow greater discretion from the legislature to use general fund in other fashions. We

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know the legislature clearly sets the appropriation for schools. So the more we contribute to that, that either allows for that appropriation level to get higher or for those general funds to be used elsewhere or to reduce taxes on Montanans potentially. The more money we put in means less general fund is necessary to fund schools.

Ms. McCulloch said I never want to minimize the \$65 million or however much it is, and you all know when I first came in this would be announced in the newspaper and so on. Everyone thought their schools got a windfall and so I try to make sure and dispel that myth but it is not to ever underestimate the importance of that first brick in the toilet tank.

Governor Schweitzer said it is clear the legislature will be in town in January and they will be making the critical decisions about the level of funding for education.

Mr. Morrison said on that note, I think there is a question about when there is such a significant increase in the revenue coming from the trust and there is not a corresponding increase for education whether we comply with our responsibilities that are imposed upon us by the Enabling Act and by the Constitution of the State of Montana because if the revenue from the trust increases significantly and it is used for other priorities, even indirectly, then essentially the trust is serving someone other than the beneficiaries. The asset value of the trust is generating revenue that is being diverted away from the beneficiaries. I think as you know from discussions in the past, there are questions about exactly who the beneficiaries are. But when the legislature does not increase revenues for schools when there is a significant increase in the trust income somebody is going to challenge that at some time and I think they have a good chance.

Ms. McCulloch said I might remind the Land Board that in the 2001 legislative session I had two bills. One was to put the revenue from the trust land, not as the first brick in the toilet tank, but as a separate fund that would be funding schools in addition to what the legislature appropriates, but that did not pass. I had a second bill that said it should at least be put into a separate account so we know where the money goes, it is not commingled and lost into another fund and that bill did pass. So we do have a separate fund this goes into so we can separately keep track of the funding.

PUBLIC COMMENTS

Mr. McGrath said I have one issue I should talk about. That is an update on the litigation surrounding the dams, ownership of the dam. The discovery process has continued. There was a hearing last week in the district court and one of the major issues is a question of whether or not the streams where the dams are located are navigable streams. Our position was there was Lewis and Clark who came up here and established beyond reasonable doubt that the Missouri River and other streams are navigable. But apparently PPL and Avista and some other companies are not so sure about that. So, that's the issue Judge Honzel has before him on issue for Summary Judgment. We anticipate that will get settled most likely in our favor. The case is scheduled for trial next fall is we don't get that resolved between now and then. I anticipate we will go to trial. If we do go to trial, the issue will be damages in terms of how much is owed to the state. So, a year from now at this meeting we should have good information of other income coming in as a result of that litigation.

A motion to adjourn was made by Mr. Morrison. Seconded by Mr. Johnson.